

§ 4.128

10 CFR Ch. I (1–1–02 Edition)

paragraph (a) of this section, a recipient shall develop a transition plan setting forth the steps necessary to complete the changes. The plan is to be developed with the assistance of interested persons, including handicapped persons, or organizations representing handicapped persons, and the plan is to meet with the approval of the NRC. The recipient shall retain a copy of the transition plan as a record until any structural change to a facility is complete. A copy of the transition plan is to be made available for public inspection. At a minimum, the plan is to:

(1) Identify physical obstacles in the recipient's facilities that limit the accessibility and usability of its program or activity to handicapped persons;

(2) Describe in detail the methods that will be used to make the facilities accessible to and usable by handicapped persons;

(3) Specify the schedule for taking the steps necessary to achieve full program accessibility and, if the time period or the transition plan is longer than 1 year, identify steps that will be taken during each year of the transition period; and

(4) Indicate the person responsible for implementation of the plan.

(e) *Notice.* The recipient shall adopt and implement procedures to ensure that interested persons, including persons with impaired vision or hearing, can obtain information concerning the existence and location of services, activities, and facilities that are accessible to, and usable by, handicapped persons.

[45 FR 14535, Mar. 6, 1980, as amended at 53 FR 19244, May 27, 1988]

§ 4.128 New construction.

(a) *Design, construction, and alteration.* New facilities shall be designed and constructed to be readily accessible to and usable by handicapped persons. Alterations to existing facilities shall, to the maximum extent feasible, be designed and constructed to be readily accessible to and usable by handicapped persons.

(b) *Conformance with Uniform Federal Accessibility Standards.* (1) Effective as of January 18, 1991, design, construction, or alteration of buildings in conformance with sections 3–8 of the Uni-

form Federal Accessibility Standards (USAF) (appendix A to 41 CFR subpart 101–19.6) shall be deemed to comply with the requirements of this section with respect to those buildings. Departures from particular technical and scoping requirements of UFAS by the use of other methods are permitted where substantially equivalent or greater access to and usability of the building is provided.

(2) For purposes of this section, section 4.1.6(1)(g) of UFAS shall be interpreted to exempt from the requirements of UFAS only mechanical rooms and other spaces that, because of their intended use, will not require accessibility to the public or beneficiaries or result in the employment or residence therein of persons with physical handicaps.

(3) This section does not require recipients to make building alterations that have little likelihood of being accomplished without removing or altering a load-bearing structural member.

[55 FR 52138, 52139, Dec. 19, 1990]

ENFORCEMENT

§ 4.231 Responsibility of applicants and recipients.

(a) *Assurances.* An applicant for Federal financial assistance for a program or activity to which this subpart applies shall submit an assurance, on a form specified by the responsible NRC official, that the program will be operated in compliance with the subpart. An applicant may incorporate these assurances by reference in subsequent applications to the NRC.

(b) *Duration of obligation.* The assurance will obligate the recipient for the period during which Federal financial assistance is extended.

(c) *Remedial action.* (1) If the responsible NRC official finds that a recipient has discriminated against persons on the basis of handicap in violation of section 504 or this subpart, the recipient shall take such remedial action as the responsible NRC official deems necessary to overcome the effect of the discrimination.

(2) Where a recipient is found to have discriminated against persons on the

basis of handicap in violation of section 504 or this subpart and where another recipient exercises control over the recipient that has discriminated, the responsible NRC official, where appropriate, may require either or both recipients to take remedial action.

(3) The responsible NRC official may, where necessary to overcome the effects of discrimination in violation of section 504 or this subpart, require a recipient to take remedial action: (i) With respect to handicapped persons who are no longer participants in the recipient's program but who were participants in the program when such discrimination occurred or (ii) with respect to handicapped persons who would have been participants in the program had the discrimination not occurred.

(d) *Voluntary action.* A recipient may take steps, in addition to any action that is required by this subpart, to overcome the effects of conditions that resulted in limited participation in the recipient's program or activity by qualified handicapped persons.

(e) *Self-evaluation.* (1) A recipient shall as soon as practicable:

(i) Evaluate, with the assistance of interested persons, including handicapped persons or organizations representing handicapped persons, its current policies and practices and the effects thereof that do not or may not meet the requirements of this subpart;

(ii) Modify, after consultation with interested persons, including handicapped persons or organizations representing handicapped persons, any policies and practices that do not meet the requirements of this subpart; and

(iii) Take, after consultation with interested persons, including handicapped persons or organizations representing handicapped persons, appropriate remedial steps to eliminate the effects of any discrimination that resulted from adherence to those policies and practices.

(2) A recipient shall, for at least three years following completion of the evaluation required under paragraph (e)(1) of this section, maintain on file, make available for public inspection, and provide to the responsible NRC official upon request: (i) A list of the interested persons consulted, (ii) a de-

scription of areas examined and any problems identified, and (iii) a description of any modifications made and of any remedial steps taken.

(f) *Designation of responsible employee.* A recipient shall designate at least one person to coordinate its efforts to comply with this subpart.

§ 4.232 Notice.

(a) A recipient shall take appropriate initial and continuing steps to notify participants, beneficiaries, applicants, and employees, including those with impaired vision or hearing, and unions or professional organizations holding collective bargaining or professional agreements with the recipient that it does not discriminate on the basis of handicap in violation of section 504 and this subpart. The notification shall state, where appropriate, that the recipient does not discriminate in admission or access to, or treatment or employment in, its programs and activities. The notification shall also include an identification of the responsible employee designated pursuant to § 4.231(f). A present recipient shall make the initial notification required by this paragraph within 90 days of the effective date of this subpart. Methods of initial and continuing notification may include the posting of notices, publication in newspapers and magazines, placement of notices in recipients' publications, and distribution of memoranda or other written communications.

(b) If a recipient publishes or uses recruitment materials or publications containing general information that it makes available to participants, beneficiaries, applicants, or employees, if shall include in those materials or publications a statement of the policy described in paragraph (a) of this section. A recipient may meet the requirement of this paragraph either by including appropriate inserts in existing materials and publications or by revising and reprinting the materials and publications.

§ 4.233 Enforcement procedures.

The enforcement and hearing procedures set forth in §§ 4.41 through 4.75 of